

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

FRANK JOYNER

PLAINTIFF

VS.

CAUSE NO. 4:12-CV-49-MPM-JMV

SEARS, ROEBUCK AND CO.

DEFENDANT

ORDER

This matter is before the Court on the Motion of the Plaintiff, Frank Joyner, and Defendant, Sears, Roebuck and Co., for an order compelling The Progressive Corporation, a non-party, to produce the recorded interview of Plaintiff Frank Joyner (#18). However, the responsive email from non-party Progressive Insurance makes no reference to a recorded interview of Frank Joyner, but the recorded interview of another non-party, George Anderson.

The motion is not well taken. In the first instance, it appears the requested information, a recorded interview with Frank Joyner, does not in fact exist. Additionally, the court does not believe a motion to compel a non-party to produce is the proper avenue for resolution of this issue. A subpoena for production is the appropriate vehicle for production from a non-party. Unless the party on whom the subpoena is served seeks relief from the subpoena, it is obligated to respond to the subpoena as it would be obligated to respond to any other court order.

IT IS, THEREFORE, ORDERED that the joint motion to compel is DENIED.

SO ORDERED, this the 20th day of November, 2012.

Jane M. Virden
MAGISTRATE JUDGE